

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

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|---------------------------|---|-------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 3:05-CR-03 |
| |) | (PHLLIPS/SHIRLEY) |
| EFREN MANZO |) | |
| |) | |
| Defendant. |) | |
| |) | |

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the district court as may be appropriate. This matter is before the Court upon Defendant Efren Manzo's Motion To Continue And To Extend Time For Filing Of Motions [Doc. 10], filed on July 11, 2006. Assistant United States Attorney Brownlow Marsh was present representing the government. Attorney Elizabeth Ford was present representing Defendant Manzo, who was also present, and participated with the aid of a translator/interpreter, Catherine Morris.

In the motion, defense counsel requests the Court to continue the trial of this matter set for August 29, 2006, and to extend the motion deadline. In support thereof, counsel avers that the government has made available approximately 2.5 hours of phone conversations, which are in Spanish, and that while counsel has engaged a translator to translate the tapes to English, the transcripts will not be available before the July 19, 2006 motion deadline.

At the July 27, 2006 hearing, Attorney Ford indicated that she had still not received the transcripts of the tapes, but stated that she expected to receive them by next week. Ford also

indicated that she would need additional time after receiving the tapes in order to review the transcripts with Defendant via an interpreter, as well as assess the need to file motions on his behalf. Attorney Ford requested a one month extension for the motion deadline. The government stated that it had no objection.

The Court questioned the Defendant at the hearing, who stated that he understood this request and did not object to his attorney's request that the trial be continued and agreed that he wanted his trial to be continued for the reasons discussed above. The Defendant furthermore stated that he understood that he would remain in detention until the new trial date.

The Court finds Defendant Manzo's Motion To Continue And To Extend Time For Filing Of Motions [Doc. 10] to be well taken and finds that the ends of justice served by granting the motions outweigh the best interest of the public and the defendants in a speedy trial. 18 U.S.C. § 3161(h)(8)(A). Noting the swiftly approaching August 29, 2006 trial date, the Court finds that the failure to grant a continuance would deprive defense counsel of adequate opportunity to translate/transcribe discovery and review same with Defendant, to assess the need to file pretrial motions, and prepare the case for trial. Furthermore, the Court will need time to consider, hear argument and rule upon any pretrial motions filed in this case. 18 U.S.C. § 3161(h)(1)(F), -(J). The Court finds that this process could not be accomplished before the August 29, 2006 trial date or in less than approximately three and one half (3.5) months. The Court finds that if the continuance were not granted a miscarriage of justice would occur. 18 U.S.C. 3161(h)(8)(B)(i). Accordingly, the Court **GRANTS** Defendant's Motion To Continue And To Extend Time For Filing Of Motions [Doc. 10].

In light of these findings and its granting of Defendant's motion to continue the trial

[Doc. 10], the Court set a new trial date of **November 14, 2006**. The Court further finds, and the parties agreed, that all the time between the filing of Defendant's motion on July 11, 2006, and the new trial date of November 14, 2006, is fully excludable time under the Speedy Trial Act for the reasons set forth herein. See 18 U.S.C. § 3161(h)(1)(F), (8)(A)-(B). Regarding further scheduling, the Court will extend the motion-filing deadline to **September 8, 2006**. Responses are due on or before **September 22, 2006**. The parties are to appear before the undersigned for a pretrial conference/motion hearing on **October 11, 2006, at 1:30 p.m.**

Accordingly, it is **ORDERED**:

(1) Defendant Efren Manzo's Motion To Continue And To Extend Time For Filing Of Motions [Doc. 10] is **GRANTED**;

(2) The trial of this matter is reset to commence on **November 14, 2006, at 9:00 a.m.**, before the Honorable Thomas Phillips, United States District Judge;

(3) All time between the filing of Defendant's **July 11, 2006** motion, and the new trial date of **November 14, 2006**, is fully excludable time under the Speedy Trial Act for the reasons set forth above;

(4) A new motion deadline is set for **September 8, 2006**;

(5) Responses are due on or before **September 22, 2006**; and

(6) A pretrial conference is set for **October 11, 2006, at 1:30 p.m.**, before the undersigned.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge